

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SETH JOSEPH KINNEY and RACHEL KINNEY,
Husband and wife, and their marital community,

Plaintiffs,

v.

CITY OF LYNNWOOD, a non-charter,
Municipal Code City, Officer CURTIS ZATYLN
and EMILY ZATYLN, husband and wife, and
Commander CHUCK STEICHEN and CARRI
STEICHEN, husband and wife, and their marital
community;

Defendants.

NO. 2:17-cv-00159-TSZ

STIPULATION AND ORDER
EXTENDING DISCOVERY CUT-
OFF FOR DEPOSITION OF ERNEST
BURWELL ONLY

STIPULATION

For good cause shown and with the judge's consent, the Court may modify the deadlines in the scheduling order. Fed. R. Civ. P. 16(b)(4); *see also* LCR 16(b)(5). The "good cause" standard primarily considers the diligence of the party seeking the amendment: the district court may modify the pretrial schedule if it cannot reasonably be met despite the diligence of the party seeking the extension. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992) (citing

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ERNEST BURWELL ONLY - (2:17-cv-00159TSZ) - 1

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1 Fed. R. Civ. P. 16 advisory committee's notes (1983 amendment)). Although the existence or
2 degree of prejudice to the opposing party might supply additional considerations for a motion to
3 modify, the focus remains on the moving party's reasons for seeking modification. *See also*
4 *Johnson*, 975 F.2d at 609 (internal citation omitted).

5 On April 25, 2017, the Court issued its Minute Order Setting Trial Date and Related Dates,
6 which established October 16, 2017 as the date for disclosure of expert testimony under Fed. R. Civ.
7 P. 26(a)(2). (Dkt. # 8 at 1.) The Court set December 7, 2017 as the date by which motions related to
8 discovery must be filed. (*Id.*) It also set January 15, 2018 as the date by which discovery was to be
9 completed. (*Id.*) Despite the diligence of the parties and due to the unavailability of a single expert
10 witness, Ernest Burwell, there is a sole deposition to be taken in this case that has not been
11 scheduled.

12 Counsel understands that Mr. Burwell is out of the country until approximately the final
13 week of January. The parties have conferred and, without waiving any arguments regarding the
14 admissibility of Mr. Burwell's opinions or the timing of his disclosure by plaintiffs, Seth Kinney
15 and Rachel Kinney, the parties have identified February 1, 2018 as the date for Mr. Burwell's
16 deposition. The parties do not need to adjust any other court deadlines, will not be prejudiced by the
17 proposed scheduling amendment, and seek a single exception to the discovery deadline of January
18 15, 2018 based upon witness unavailability.

19 IT IS HEREBY STIPULATED AND AGREED between the undersigned parties, through
20 their respective counsel of record, that good cause exists to permit the following deposition in this
21 case to be conducted according to the schedule outlined:

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DISCOVERY MATTER	DATE OF COMPLETION
Deposition of Ernest Burwell (Taken by defendants)	February 1, 2018

RESPECTFULLY SUBMITTED this 12th day of January, 2018.

CHRISTIE LAW GROUP, PLLC

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DATED this 16th day of January, 2018.

Thomas S. Zilly
United States District Judge